

## **BOARD OF ZONING APPEALS**

### **Minutes**

**December 5, 2000**

The special meeting of the Board of Zoning Appeals of the City of Wichita, Kansas, was held at 1:30 p.m., on December 5, 2000, in the Planning Department Conference Room, Tenth Floor of City Hall, 455 N. Main, Wichita, Kansas.

The following Board members were in attendance: FLOYD PITTS, JOHN ROGERS, JAMES P. RUANE, BRADLEY TIDDEMANN, JAMES B SKELTON, and MARY DE SENA. The following Board member was absent: RANDY PHILLIPS.

The following Planning Department staff members were present: DALE MILLER, Secretary, SCOTT KNEBEL Assistant Secretary, Recording Secretary, ROSE SIMMERING.

Also present SHARON DICKGRAFE -- Assistant City Attorney and J.R.COX -- Commercial Plan Review/Commercial Zoning -- Office of Central Inspection.

**PITTS:** No objections we will call the special meeting of the Board of Zoning Appeals to order. I would like for the secretary to call role to ascertain that we do have a quorum present.

**SIMMERING:** Calls role.

**PITTS:** The first item on the Agenda is the approval of the meeting minutes from the August 22, 2000 meeting. Has everyone had an opportunity to review these minutes?

**RUANE:** Yes. I have a word spelling to correct, on page 2 of the draft minutes. The first full paragraph on that page twelve, the third line down, the word quasi-judicial group, it is quasi-judicial group and other than that they are fine.

**PITTS:** Which paragraph was that Mr. Ruane?

**RUANE:** The first full paragraph on page twelve, the third line down.

**PITTS:** The spelling of quasi?

**RUANE:** Yes. Other than that I will make a motion.

**RUANE moves TIDEMANN seconds that the meeting minutes for August 22, 2000, be approved as submitted.**

**MOTION CARRIES 5-0.**

**PITTS:** Case number BZA2000-00052.

**SCOTT KNEBEL, Senior Planner, MAPD Staff:** The case before you today is not the case number on the screen but it is the associated variance with the conditional use. The applicant is actually requesting two variances. One variance is to reduce the required off-street parking from 11 spaces to 5 spaces. The second variance is to allow parking within the front yard setback within 8 feet of the property line in a residentially zoned property.

The variances are requested to allow the construction of a neighborhood swimming pool, which is shown here in this particular site plan. This neighborhood swimming pool has received a Conditional Use Permit from the Planning Commission subject to the granting of these two variances by the Board of Zoning Appeals.

The application area is located on Keith Street, south of Ryan which is in the vicinity of 29<sup>th</sup> and Tyler. The code requires one parking space per 100 square feet pool area and 100 square feet area of clubhouse area. In this particular instance the code required off-street parking would be 11 spaces and a variance is required to reduce that figure below 10% or in this case below 10 spaces.

The "Unified Zoning Code" also allows administrative approval to permit parking in the front yard setback in residential zoning districts; however it limits that administrative authority to parking up to 8 feet from the property line. In this particular instance (showing slides), there is a small segment of the parking located right here in this location (indicating) that is within and as close as 5 feet to the front property line. This is the subject property here (indicating). There is a vacant track located just west of a drainage pond that is located in the middle of a single-family residential neighborhood. I will go through these quickly and you can see that it is a developing neighborhood and that most of the lots have been built at this point.

In reviewing the criteria, we found that the request is unique in that it is located along a street that provides greater on-street parking capabilities than is typically found in single family neighborhoods and pools that are associated with them.

We also feel that the adjacent property will not be adversely impacted since the use of the pool will be restricted to the members of the homeowner's association. In addition to that, the people who use the pool will mostly be walking from the surrounding neighborhood rather than driving and parking their vehicles.

We feel that there is a hardship in this instance in that the amount of land is limited by the size of the drainage pond that is in this location. Not granting these variances would limit the use of this site to some recreational purpose other than the pool, perhaps a park or something along those lines. The residents of the area who would be impacted by the reduction of parking and parking in the setbacks desire to have this pool as an amenity in their neighborhood.

We do not feel that the public interest would be adversely impacted since the members of the homeowner's association who are making the request are the ones who will be impacted by the reduction in parking rather than the public at large.

We feel that the strict interpretation of the zoning code in this particular instance would essentially prevent the construction of this neighborhood amenity which is intended to increase the quality of life in the neighborhood which we think is an important goal.

Based on these findings we are recommending that the variance be granted subject to development of the site in conformance with the site plan and construction of the improvements within one year.

With that I will stand for questions.

**PITTS:** Let me start off by asking you about this shelter. Am I to assume that this 10 X 10 shelter is covered?

**KNEBEL:** The one to the south of the clubhouse?

**PITTS:** It looks to me that it might be to the east.

**KNEBEL:** Let me look at the site plan a little more closely. Yes. That would be a picnic shelter, I believe, I will let the applicant answer that. But, my understanding is that is an open picnic shelter.

**PITTS:** What kind of shelter?

**KNEBEL:** An open picnic shelter, with a picnic table.

**PITTS:** But does the drawing depict that the roof is covered?

**KNEBEL:** Well, it would be covered with a roof, but it would not have walls.

**PITTS:** So there aren't any requirements for that 100 square feet for parking?

**KNEBEL:** Yes, as long as it is not enclosed. My understanding is that it won't be. I will let the applicant address that question.

**PITTS:** So that is a fact that if that is not enclosed there are no requirements for parking?

**KNEBEL:** Correct.

**PITTS:** The kid's pool is that part of the total square footage?

**KNEBEL:** I actually did not measure the square footage of the pool. It was measured by the planner who did the Conditional Use case, so I would have to pull out my scale and measure it and be sure that it is, but it should be included.

**PITTS:** But we are to assume that the kid's pool area is included with the 700 square feet?

**KNEBEL:** Correct, with the other pool. The pool area in the code is required to have off-street parking spaces with it, whether it is for kids or for adults.

**PITTS:** Thank you. Are there any further questions for staff from the bench?

**RUANE:** My question is, was this particular site platted, as the location for a pool or community improvements?

**KNEBEL:** It was not. It was platted as a recreation area or open space in the plat and so that is why they have sought the Conditional Use. When plats are recorded and reviewed by the Planning Commission, if a site plan for a pool is submitted along with the plat they are permitted without a Conditional Use. If that site plan is not submitted at that time, then a Conditional Use is required.

**RUANE:** Okay, Thanks.

**PITTS:** Are there any other questions of staff? Thank you. Is there anyone in the audience to speak in favor of the variance? Please approach the microphone and give your name and residence address, please.

**RON PRICE, 8906 Ryan Circle, which is in the Bradford Addition:** I am a member of the park committee for the Bradford Homeowner's Association. We debated this around between votes for a playground or pool. We found that the majority of the homeowner's wanted the pool. So we started researching that option and because I am going to go with what the Secretary's Report said here.

This is unique, as if you will notice I don't know how to run this thing (pointing at the screen for slides). This one section (indicating) it has about 600 feet that has no houses in along that same area, it is a detention pond with a sidewalk boarding the whole detention pond. So you are going to have about 600 feet of space on that one side for parking that will not even affect the front of the owner's. The homeowner's have all expressed that they are all in favor of it. But, because of that uniqueness of where it is at, we have no restriction for parking just in front of this particular location because of the hole goes around the bend of the pond and has about 600 feet of parking along side that sidewalk area. It is all sidewalk in for walking back to the pool.

But, we do not feel that there will be that much private parking. I live quite a distance, probably one of the farthest ones from the pool in the whole association and I would not drive to the pool because when you are out going to the pool you just walk to your neighborhood pool. I don't know if my other parts of the committee the couple gals here want to say anything more, I was just impromptu on it. I just wanted to make sure that you all realize that the Bradford Homeowners want this to make our property more valuable as well as something for our kids to do rather than roam the streets. That is all I have to say. Do you have any questions?

**PITTS:** Let me ask you a question. As I look at that drawing of the plan, where is the detention pond?

**PRICE:** The detention pond, on this side right here, there is a house here but this side here has got a ditch from the adjoining area. The pond itself is all the way around here and goes about 600 feet. That one picture showed it very well that you had up there. But, there are no houses about 600 feet on both sides of the detention pond.

**PITTS:** Thank you. Are there any other questions for Mr. Price from the bench? Thank you very much, Mr. Price. Are there any others in the audience to speak in favor of the variance?

**MICHELLE WILCOX, Chairperson on the park and playground committee for the Bradford Homeowner's Association:** I just wanted to answer the question that you had early regarding the 10 X 10 shelter. Basically, that is just going to be a shelter to put some picnic tables and stuff under it. It is not going to be enclosed, it is not going to have any walls, but it will have a roof over it. We have not decided yet if it is going to be an arbor type, it will just have slates and vine across the top of it or if it will have an actual just plain roof on top of that. But, it will not be enclosed it will just have some picnic benches and stuff in it.

**PITTS:** What is that 8 X10? Are those steps leading up the clubhouse?

**WILCOX:** Where at?

**PITTS:** It is adjacent to the clubhouse, an 8 X 15 or something?

**WILCOX:** I believe that is an arbor. That will have the slates at the top and we will have vine going across that but it will not have any walls or anything around that either, it is just to give us some shade, and a place to sit underneath. Also, as Ron said, there is a lot of off-street parking and it is not that large of a development that I think most people will walk to it or ride their bikes. That is all I have. Any questions?

**PITTS:** Any other questions for Ms. Wilcox?

**RUANE:** Is there going to be any other use for the clubhouse or structure other than just simply as a pool house? What is going to be inside there?

**WILCOX:** Actually, the only thing that we are planning on having inside of it will be the bathrooms. Then we will have that place to sit underneath it. I think there is a place that will have the pumps and stuff for the pool will be included in that too. Basically, just a bathhouse.

**ROGERS:** What means are you going to use to make sure that it is used just by the homeowner's itself? I know there are a couple of different types.

**WILCOX:** Yes, we are planning on sending out keys to everybody that is in good standing, everybody that has paid their dues. People who have not paid their dues will not get a key. We will definitely have it locked so you will not be able to get in at all to use any of the facilities without a key.

**ROGERS:** Very well, Thank you.

**PITTS:** Are there others in the audience to speak in favor of granting the variance.

**AUDIENCE:** I am in favor of the variance.

**PITTS:** You are in favor? You may approach if you want to. You don't have to. If you are in favor then I don't believe that there is going to be anybody in the audience opposed to it, if there are let us know. Otherwise, we are going to restrict the conversation to the bench. The Secretary might note the Mr. Skelton did appear within one minute after the time that the meeting started. If there is not any discussion, the Chair will entertain a motion to either abide by the recommendations of staff or otherwise.

**SKELTON:** I am going to vote in favor of this. This is an example of a neighborhood that is trying to do something for itself and improve the quality of life. In my opinion this Board should follow through with their request and grant the variance.

**SKELTON moves ROGERS seconds that the Board accept the findings of fact as set forth in the Secretary's Report; and that all five conditions set out in Section 2.12.590 (b) of the City code as necessary for the granting of a variance have been found to exist and that the variance be granted subject to the conditions as set out in the Secretary's Report. Regarding BZA2000-00052 note that there are two variances in application here, 1) A variance to reduce parking requirements from 11 spaces to 5 spaces. 2) A variance to allow parking within the front yard setback within 8 feet of the property line in a residential district.**

**ROGERS:** Does that include both variances, his motion?

**SKELTON:** Yes. I would like this motion to apply to both variances, if I may.

**PITTS:** Unless there is any real reason why anyone sees that we should not consider this as one motion, I think they are both concurrent. So that does include both variances one and two.

**ROGERS:** Very good.

**PITTS:** And you did second the motion?

**ROGERS:** Yes, sir I did.

**MOTION CARRIES 6-0.**

**PITTS:** Item number three, Report from Central Inspection regarding compliance with requirements of various cases.

**J.R. COX, Office of Central Inspection:** I have no report for this meeting.

**PITTS:** If there is no new business to attend to we have completed the Items on the Agenda.

**ADJOURNED at 1:50 p.m.**